

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

CONSOLIDATED UNDER
CASE NO. 05-10155 PBS

YISEL DEAN, Independent Administratrix of the Estate of
STEVEN DEAN, deceased, and on behalf of all statutory
beneficiaries,
Plaintiff,

V.

DOCKET NO: 05cv10155 PBS

RAYTHEON COMPANY, a Delaware corporation,
RAYTHEON AIRCRAFT COMPANY, a Kansas Corporation,
RAYTHEON AIRCRAFT CREDIT CORPORATION, a
Kansas Corporation, COLGAN AIR, INC., a Virginia
Corporation d/b/a US Air
Express,
Defendants.

LISA A. WEILER, Administratrix of the Estate of SCOTT A. KNABE, deceased, and on behalf of all statutory beneficiaries,
Plaintiff,

V.

DOCKET NO: 05cv10364 PBS

RAYTHEON COMPANY, a Delaware corporation,
RAYTHEON AIRCRAFT COMPANY, a Kansas Corporation,
RAYTHEON AIRCRAFT CREDIT CORPORATION, a
Kansas Corporation, COLGAN AIR, INC., a Virginia
Corporation d/b/a US Air Express,
Defendants.

**DEFENDANTS' OPPOSITION TO PLAINTIFFS' MOTION *IN LIMINE* TO EXCLUDE
EVIDENCE OF ENFORCEMENT ACTIONS AND SUSPENSIONS OF COLGAN
MECHANICS FOR FAILURE TO REMOVE AIRCRAFT ELEVATORS DURING
MAINTENANCE**

NOW COME the defendants, and hereby respectfully request that this Court deny the Plaintiffs' Motion *in Limine* to Exclude Evidence of Enforcement Actions and Suspensions of Colgan Mechanics for Failure to Remove Aircraft Elevators During Maintenance. As grounds therefore, the defendants state as follows:

Plaintiffs' contention that evidence of the suspensions of several of the mechanics who worked on and replaced the elevator trim tab actuators is inadmissible is without merit. Rule 803(8) of the Federal Rules of Civil Procedure states:

“Public records and reports. Records, reports, statements, or data compilations, in any form, of public offices or agencies, setting forth (A) the activities of the office or agency, or (B) matters observed pursuant to duty imposed by law as to which matters there was a duty to report, excluding, however, in criminal cases matters observed by police officers and other law enforcement personnel, or (C) *in civil actions and proceedings and against the Government in criminal cases, factual findings resulting from an investigation made pursuant to authority granted by law*, unless the sources of information or other circumstances indicate lack of trustworthiness.” (Emphasis added)

Before the FAA suspended the mechanic certificates of the maintenance crew who worked on the aircraft in question, the FAA performed an investigation into the facts surrounding the maintenance crew's involvement in this accident. The details of this investigation, including the ultimate disciplinary action by the FAA, are admissible under the public records and report exception to the hearsay rule. See Federal Aviation Admin. v Landy, 705 F2d 624 (1983, CA2 NY) (certain documents sent to the FAA during the course of their investigation were admissible as they were part of FAA's factual findings resulting from investigation made pursuant to authority granted by law). It follows that the Orders of Suspension from the FAA constitute factual findings resulting from an investigation made pursuant to authority granted by law and should be admissible.

WHEREFORE, the Defendants respectfully request that this Court deny the Plaintiffs' Motion *in Limine* to Exclude Evidence of Enforcement Actions and Suspensions of Colgan Mechanics for Failure to Remove Aircraft Elevators During Maintenance.

RAYTHEON DEFENDANTS,
By Counsel,

I hereby certify that this document(s) filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on January 30, 2007.

/s/ Peter C. Knight

/s/ Peter C. Knight

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